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TAN BEE GEOK v. THAI KIM SIM & ANOR; LIN WOON FUI (PARTY CITED)

HIGH COURT MALAYA, KUALA LUMPUR
EVROL MARIETTE PETERS J
[JUDICIAL SEPARATION PETITION NO: WA-33-238-04-2022]
8 APRIL 2025

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Abstract – *Contempt of court is less about an individual's personal failure to follow orders and more about the broader principle that the judicial system must be respected and able to operate without interference. No one should be allowed to thumb their nose at any court order, regardless of his position. A wilful refusal to comply with the terms of a court order and a deliberate disregard of a court's mandate, is indicative of a total disrespect to the administration of justice, which courts take an extremely dim view of. The punishment should reflect the gravity of the breach of the court order.*

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CIVIL PROCEDURE: *Contempt of court – Non-compliance of court order – Allegation of – Assets division proceedings – Failure to provide full and accurate disclosure of assets – Whether 'all assets' encompasses every form of financial holding including monies in bank accounts, investments and retirement savings – Whether there was wilful non-compliance*

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FAMILY LAW: *Proceedings – Contempt of court – Non-compliance of court order – Assets division proceedings – Failure to provide full and accurate disclosure of assets – Whether 'all assets' encompasses every form of financial holding including monies in bank accounts, investments, and retirement savings – Whether there was wilful non-compliance*

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This was an application by the petitioner-wife ('petitioner'), in encl. 167, pursuant to O. 52 of the Rules of Court 2012 ('ROC') seeking to have the first respondent-husband ('first respondent') cited for contempt of court, alleging that he had breached the terms of a court order. The petitioner and the first respondent ('parties') were married in 1987 and had three children. The marriage was unable to withstand the test of time and amidst numerous allegations made against each other, the petitioner filed for judicial separation in April 2022 ('judicial separation') whilst the first respondent filed a divorce petition in April 2024 ('divorce petition'). In June 2023, the petitioner filed an application for ancillary relief ('encl. 68') seeking, amongst others, an injunction pursuant to s. 102 of the Law Reform (Marriage and Divorce) Act 1976, which was allowed. In April 2024, the first respondent applied for clarification of the court order due to differences in the interpretation of some of its terms. The clarification was made by this court accordingly

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('clarification order') in July 2024. In April 2024, the petitioner obtained leave to initiate contempt proceedings against the first respondent for the following non-compliance of para. (b) of the court order: (i) the first respondent failed to fully disclose details of his bank accounts, providing only account numbers without revealing the corresponding balances; (ii) additionally, the first respondent did not disclose all of his bank accounts, including his Employees Provident Fund ('EPF'); and (iii) furthermore, the first respondent limited his disclosure of shareholding and properties to the period from the date of marriage until the filing of the judicial separation in April 2022, rather than as of the date of the affidavit of means as stated in para. (b) of the court order, which was 10 January 2024. In May 2024, the petitioner filed this application. Subsequently, in June 2024, the first respondent filed an application to set aside the order of the court ('application to set aside') which had granted the petitioner leave to initiate the committal proceedings. The application to set aside was dismissed in September 2024. The key issues for consideration were (i) whether para. (b) of the court order was vague and ambiguous, thereby making compliance challenging or unclear for the first respondent; and (ii) whether the first respondent had wilfully refused to comply with para. (b) of the court order, indicating a deliberate disregard for the court's mandate.

Held (allowing application):

(1) A bank account, in and of itself, is not an asset but merely a facility or mechanism provided by a financial institution to hold and manage money. The true asset in question is the money contained within the account, not the account itself. This distinction is fundamental in financial and legal contexts, particularly in matters of disclosure, asset division, and enforcement of court orders. Legally and practically, a bank account is simply an agreement between an individual and a bank that allows the individual to deposit, withdraw, and transfer funds. Courts, therefore, do not assess financial worth based on the number of bank accounts a person has, but rather on the amount of money contained in those accounts. By merely providing account numbers without disclosing balances, a party does not reveal any meaningful financial information. (paras 17-20)

(2) The first respondent, as an experienced businessman, he was well-versed in handling complex financial transactions, asset management, and legal compliance. Given his expertise, he undoubtedly understood the necessity of full financial disclosure-especially in proceedings involving assets division. His failure to disclose his bank account balances could not reasonably be attributed to ignorance or oversight. As such, the first respondent's failure to disclose the balances in his bank accounts

constituted a deliberate act of non-compliance of para. (b) of the court order, as it obstructed the administration of justice and prevented a fair determination of financial matters. (paras 21-23)

(3) In legal contexts, 'all assets' encompasses every form of financial holding, including monies in bank accounts, investments, and retirement savings such as EPF. The well-established judicial position is that EPF constitute assets, particularly in family and matrimonial disputes, as reinforced by s. 53A of the Employees Provident Fund Act 1991 ('EPF Act'). This section provides statutory recognition of EPF funds as divisible assets in divorce and financial settlement cases. To firmly establish that the EPF was unequivocally included as a divisible asset under para. (b) of the court order, a holistic reading of the order left no doubt as to its status. Crucially, para. (a) of the same order expressly listed the EPF under 'aset-aset yang dinyatakan seperti berikut,' thereby explicitly classifying it as part of the matrimonial assets. This unambiguous enumeration served a dual purpose: first, it eliminated any potential ambiguity regarding the nature of the EPF, and second, it confirmed the court's intent to treat it as a distributable asset in the division. Thus, the first respondent's EPF, by virtue of its express designation in para. (a), was incontrovertibly deemed part of the divisible assets. Any contention to the contrary would be untenable, as it disregarded both the explicit language of the court order and the settled canons of interpretive certainty in legal instruments. Given the clarity of the law and the consistent judicial approach toward EPF, there was no reasonable justification for the first respondent to exclude them from disclosure. (paras 26-30)

(4) The first respondent failed to provide a full and accurate disclosure of his assets. While he disclosed his shareholding and property holdings from the date of marriage up until the filing of the judicial separation in April 2022, he failed to account for his assets as they stood at the time of filing his affidavit of means or at the date of the court order. This omission was significant, as the relevant period for financial disclosure should have reflected his financial position at the time the court required it, ensuring transparency and fairness in the proceedings. The court order unequivocally took effect on the date it was granted, namely, 10 January 2024. Since this effective date applied to all other terms of the order, there was no logical basis for excluding para. (b). (paras 32 & 37)

(5) The first respondent had breached para. (b) of the court order as he had not denied it, but merely attempted to justify it by stating that the term of the court order was vague and ambiguous. Instead of rectifying his non-compliance, the first respondent took a defensive stance, filing the

application to set aside in June 2024. The first respondent's move was a calculated delaying tactic designed to waste judicial time and evade accountability. By filing the application to set aside, which was baseless and unsubstantiated, the first respondent had deliberately prolonged the committal proceedings, creating unnecessary hurdles instead of addressing the core issue, which was his failure to comply with para. (b) of the court order. This persistent defiance ultimately substantiated the petitioner's argument that the first respondent had wilfully refused to comply with the court order. The first respondent's failure to comply with para. (b) of the court order was not a matter of preserving the dignity of this court; rather, it was directly linked to the court's authority to guarantee that the administration of justice is neither obstructed nor thwarted. The first respondent's conduct was deliberate, intentional and a wilful refusal to comply with the terms of the court order. It was also indicative of his impertinence and total disrespect to the administration of justice, which this court took an extremely dim view of. (paras 40, 46, 48, 51, 56 & 60)

(6) The focus of the application should not be on the first respondent's financial capacity but rather on the seriousness of his non-compliance of the term of the court order. The punishment should reflect the gravity of the breach of the court order, rather than being determined by the first respondent's ability to pay. Accordingly, the court imposed a fine of RM20,000 for each of the three categories of non-compliance, amounting to a total fine of RM60,000. In addition, the court ordered the first respondent to pay costs of RM30,000 subject to allocatur. (paras 66 & 67)

Case(s) referred to:

BYD Auto Industry Company Ltd v. Amdac (M) Sdn Bhd [2017] 5 CLJ 371 HC ***(refd)***
Chandra Sri Ram v. Murray Hiebert [1997] 3 CLJ Supp 518 HC ***(refd)***
Ching Seng Woah v. Lim Shook Lin [1997] 1 CLJ 375 CA ***(refd)***
Fairclough & Sons v. Manchester Ship Cane Co (No 2) [1897] WN 7 ***(refd)***
Hadkinson v. Hadkinson [1952] 2 All ER 567 ***(refd)***
Jasa Keramat Sdn Bhd v. Monatech (M) Sdn Bhd [2001] 4 CLJ 549 CA ***(refd)***
Lee Chang Yong v. Teng Wai Yee [2017] CLJU 1818; [2017] 1 LNS 1818 HC ***(refd)***
Leow Kooi Wah v. Philip Ng Kok Seng & Anor [1997] CLJU 419; [1997] 1 LNS 419 HC ***(refd)***
Malaysia Venture Capital Management Bhd v. Teang Soo Thong & Anor [2016] CLJU 271; [2016] 1 LNS 271 HC ***(refd)***
PP v. Multi Electrical Supply & Services & Ors [2022] 5 CLJ 113 HC ***(refd)***
Tan Bee Geok v. Thai Kim Sim & Anor; Lin Woon Fui (Party Cited) [2024] CLJU 2333; [2024] 1 LNS 2333 HC ***(refd)***
Tan Sri Dato' (Dr) Rozali Ismail v. Lim Pang Cheong & Ors [2012] 2 CLJ 849 FC ***(refd)***
TO Thomas v. Asia Fishing Industry Pte Ltd [1977] CLJU 126; [1977] 1 LNS 126 FC ***(refd)***

Legislation referred to:
Courts of Judicature Act 1964, s. 13
Employees Provident Fund Act 1991, s. 53A
Federal Constitution, art. 126
Law Reform (Marriage and Divorce) Act 1976, s. 102
Rules of Court 2012, O. 52

For the petitioner – Fredric Kong, Avinash Kamalanathan & Jessica Leong; M/s Bin & Assocs
For the respondents – Chris Chin & Tan Han Rui; M/s Shang & Co

Reported by Suhainah Wahiduddin

JUDGMENT

Evrol Mariette Peters J:

Introduction

[1] This was an application ('this application') by the petitioner-wife in encl. 167, pursuant to O. 52 of the Rules of Court 2012 ('Rules of Court'), seeking to have the first respondent-husband cited for contempt of court, alleging that he had breached the term of a court order granted in January 2024.

The Factual Background

[2] The petitioner and first respondent (collectively 'the parties'), aged 63 and 64 respectively at the time of the hearing of this application, were married in August 1987 and had three children ('the children') born respectively in 1987, 1991, and 1994.

[3] The first respondent is engaged in various business activities in Malaysia, including, but not limited to, overseeing the operations of the Supermax Group of companies, which encompasses Supermax Corporation Berhad and Supermax Holdings Sdn Bhd. The petitioner and the first respondent co-founded Supermax Corporation Berhad in 1987, with the petitioner being actively involved in its management until 2018. The petitioner continues to hold a stake in Supermax Holdings Sdn Bhd.

[4] The marriage was unable to withstand the test of time and amidst numerous allegations made against each other, the petitioner filed for judicial separation in April 2022 ('the judicial separation') whilst the first respondent filed a divorce petition in April 2024 ('the divorce petition').

[5] Numerous interlocutory applications and applications for ancillary relief were filed by both parties.

[6] In June 2023, the petitioner filed an application for ancillary relief ('encl. 68'), seeking, amongst others, an injunction pursuant to s. 102 of the Law Reform (Marriage and Divorce) Act 1976 ('Law Reform (Marriage and

Divorce) Act'), which reads:

Section 102 – Power for court to set aside and prevent dispositions intended to defeat claims to maintenance

(1) Where –

(a) **any matrimonial proceeding is pending**; or

(b) an order has been made under section 76 and has not been complied with; or

(c) an order for maintenance has been made under section 77 or 93 and has not been rescinded; or

(d) maintenance is payable under any agreement to or for the benefit of a spouse or former spouse or child,

the **court shall have power** on application –

(i) if it is satisfied that any disposition of property has been made by the spouse or former spouse or parent of the person by or on whose behalf the application is made, within the preceding three years, with the object on the part of the person making the disposition of reducing his or her means to pay maintenance or of depriving his or her spouse of any rights in relation to that property, to set aside the disposition; and

(ii) if it is satisfied that **any disposition of property is intended to be made** with any such object, **to grant an injunction preventing that disposition.**

(2) For the purposes of this section -

"disposition" includes a sale, gift, lease, mortgage or any other transaction whereby ownership or possession of the property is transferred or encumbered but does not include a disposition made for money or money's worth to or in favour of a person acting in good faith and in ignorance of the object with which the disposition is made;

"property" means property of any nature, movable or immovable, and includes money. (emphasis added)

[7] In January 2024, the application for ancillary relief was allowed by this court in part ('the court order') in the following manner:

(a) Bahawa Responden Pertama samada melalui dirinya sendiri, ejen, wakil, pengkhidmat, pekerja atau sebaliknya dihalang sehingga Perintah lanjut daripada memindahkan, mengeluarkan, menggadai, membebankan ('encumber') dalam apa jua cara sekalipun, berurusan atau sebaliknya melupuskan, melesapkan, mengurangkan nilai atau berasing dengan apa jua cara ke atas 50% bahagian asset atau hartanah dalam nama tunggal Responden Pertama, yang adalah termasuk tetapi tidak terhad kepada aset-aset yang dinyatakan seperti berikut:-

No	Deskripsi Aset
1.	Kondominium yang beralamat di *** Subang Jaya, Selangor
2.	Akaun-akaun Bank RHB Bank: Akaun matawang pelbagai No: *** Akaun matawang pelbagai No: *** Akaun matawang pelbagai No: ***
3.	Akaun-akaun Malayan Bank Berhad: Akaun matawang pelbagai No: ***
4.	Hartanah yang dipegang di bawah *** Ijok, Selangor
5.	OCBC Wing Hang (Hong Kong) Akaun Semasa No *** Akaun Semasa No *** Akaun Semasa No *** Akaun Semasa No *** Akaun Semasa No ***
6.	ICBC (Hong Kong) Akaun Semasa No ***
7.	Akaun Simpanan Tetap (Time Deposit) ICBC No ***
8.	Saham-saham dalam Supermax Holdings Sdn Bhd
9.	Saham-saham dalam Global Charm Corporate Ltd (Hong Kong company)
10.	Akaun Kumpulan Wang Simpanan Pekerja No ***

(b) Responden Pertama hendaklah memfailkan dan menyampaikan afidavit yang mengandungi **butir-butir penuh mengenai harta-harta dan pendapatannya termasuk dan tidak terhad** kepada semua aset, akaun bank sama ada di dalam atau di luar Malaysia yang dimiliki olehnya dalam tempoh 14 hari dari tarikh Perintah ini;

(c) Pempetisyen hendaklah dalam masa 14 hari selepas penyampaian Afidavit di perenggan b di atas, memfailkan dan menyampaikan Afidavit yang mengandungi butir-butir penuh mengenai harta-harta dan pendapatannya; termasuk dan tidak terhad kepada semua aset akaun bank sama ada di dalam atau di luar Malaysia yang dimiliki olehnya;

(d) Relif-relif 1 dan 3 dalam Lampiran 68 ditolak;

… (emphasis added)

[8] In April 2024, the first respondent applied for clarification of the court order due to differences in the interpretation of some of its terms. The clarification was made by this court accordingly ('the clarification order') in July 2024.

[9] In April 2024, the petitioner obtained leave to initiate contempt proceedings against the first respondent for the following non-compliance of para. (b) of the court order:

(i) the first respondent failed to fully disclose details of his bank accounts, providing only account numbers without revealing the corresponding balances;

(ii) additionally, the first respondent did not disclose all of his bank accounts, including his employees provident fund ('EPF'); and

(iii) furthermore, the first respondent limited his disclosure of shareholding and properties to the period from the date of marriage until the filing of the judicial separation in April 2022, rather than as of the date of the affidavit of means as stated in para. (b) or of the court order, which was 10 January 2024.

[10] In May 2024, the petitioner filed this application. In June 2024, the first respondent filed an application to set aside the order of the court ('the application to set aside') which had granted the petitioner leave to initiate the committal proceedings. The application to set aside was dismissed with costs in September 2024

The Issues

[11] The key issues for consideration were two-fold:

(i) whether para. (b) of the court order was vague and ambiguous, thereby making compliance challenging or unclear for the first respondent; and

(ii) whether the first respondent had wilfully refused to comply with para. (b) of the court order, indicating a deliberate disregard for the court's mandate.

[12] After careful deliberation, this application was allowed for the reasons outlined below.

Contentions, Evaluation, And Findings

Whether Paragraph (b) Of The Court Order Was Vague Or Ambiguous

[13] The first alleged non-compliance was that the first respondent had failed to fully disclose details of his bank accounts, providing only account numbers without revealing the corresponding balances.

[14] The first respondent contended that he had not breached para. (b) of the court order, asserting that para. (b) did not explicitly require him to disclose his account balances. The first respondent maintained that by merely providing a list of account numbers, he had complied with para. (b) of the court order for disclosure.

[15] The first respondent further contended that the wording of the court order was ambiguous and did not expressly mandate the revelation of the amounts held within those accounts.

[16] I found the first respondent's contention untenable for the following reasons.

[17] It is trite that a bank account, in and of itself, is not an asset but merely a facility or mechanism provided by a financial institution to hold and manage money. The true asset in question is the money contained within the account, not the account itself. This distinction is fundamental in financial and legal contexts, particularly in matters of disclosure, asset division, and enforcement of court orders.

[18] Legally and practically, a bank account is simply an agreement between an individual and a bank that allows the individual to deposit, withdraw, and transfer funds. The account itself does not possess any intrinsic value – it is not a physical or tangible asset that can be liquidated or divided. Instead, the value lies in the funds that are credited to the account, which can be used, invested, or transferred at the discretion of the account holder. Courts, therefore, do not assess financial worth based on the number of bank accounts a person has, but rather on the amount of money contained in those accounts.

[19] This principle has been affirmed in legal precedent. In cases such as *PP v. Multi Electrical Supply & Services & Ors* [2022] 5 CLJ 113; [2022] 10 MLJ 369, *BYD Auto Industry Company Ltd v. Amdac (M) Sdn Bhd* [2017] 5 CLJ 371; [2017] 11 MLJ 513, and *Malaysia Venture Capital Management Bhd v. Teang Soo Thong & Anor* [2016] CLJU 271; [2016] 1 LNS 271; [2016] 9 MLJ 766, courts have consistently ruled that financial disclosure must include actual balances because the monies in the accounts are the true financial asset. The rationale behind this is simple – without knowing how much money is in an account, there is no way to determine an individual's actual wealth or compliance with financial obligations.

[20] By merely providing account numbers without disclosing balances, a party does not reveal any meaningful financial information. A person can have multiple accounts with negligible balances or, conversely, a single account containing substantial wealth. Thus, withholding account balances while disclosing only account numbers is a tactic that can be used to conceal financial resources, making it impossible for the court to accurately assess a person's financial position.

[21] I must emphasise that the first respondent is no stranger to financial or legal matters. As an experienced businessman, he is well-versed in handling complex financial transactions, asset management, and legal compliance. Given his expertise, he undoubtedly understood the necessity of full financial disclosure – especially in proceedings involving asset division. His failure to disclose his bank account balances cannot reasonably be attributed to ignorance or oversight.

[22] In my view, the first respondent was engaging in pedantic reasoning, clinging to a tenuous interpretation of para. (b) of the court order to evade the disclosure of vital financial information. His argument appeared to be an attempt to characterise his compliance as technically adequate while circumventing the full transparency that the court order was inherently designed to achieve.

[23] As such, it was my view that the first respondent's failure to disclose the balances in his bank accounts constituted a deliberate act of non-compliance of para. (b) of the court order, as it obstructed the administration of justice and prevented a fair determination of financial matters.

[24] With regard to the first respondent's EPF, he argued that since the EPF was not explicitly mentioned in the court order, his failure to disclose it did not amount to non-compliance with para. (b) of the court order. The first respondent's contention rested on the premise that unless specifically stated, the obligation to disclose financial holdings should not be assumed to extend to his EPF.

[25] I found the first respondent's argument unacceptable for several reasons. While the phrase "semua aset" or "all assets" in para. (b) of the court order appeared to be broad, it was by no means vague or open to selective interpretation.

[26] In legal contexts, "all assets" encompasses every form of financial holding, including monies in bank accounts, investments, and retirement savings such as EPF. The well-established judicial position is that EPF constitutes assets, particularly in family and matrimonial disputes, as reinforced by s. 53A of the Employees Provident Fund Act 1991 ('the EPF Act'). This section provides statutory recognition of EPF funds as divisible assets in divorce and financial settlement cases. The provision reads:

> Section 53A – Transfer of credit of a member of the Fund in accordance with the division of matrimonial assets order
>
> (1) Notwithstanding s. 51, **when an order is issued by a court of** the sums of money standing to the credit of a member of the Fund **is matrimonial asset,** the Board may, after being served with the sealed order, transfer the sum of money as ordered by the court

A from the account of a member of the fund into the account of the receiver named in the order subject to any terms and conditions as prescribed by the board.

… (emphasis added)

B **[27]** It has also been established by case law, including *Ching Seng Woah v. Lim Shook Lin* [1997] 1 CLJ 375 and *Leow Kooi Wah v. Philip Ng Kok Seng & Anor* [1997] CLJU 419; [1997] 1 LNS 419; [1997] 3 MLJ 133, that EPF is a matrimonial asset.

C **[28]** To firmly establish that the Employees Provident Fund (EPF) was unequivocally included as a divisible asset under para. (b) of the court order, a holistic reading of the order leaves no doubt as to its status. Crucially, para. (a) of the same order expressly listed the EPF under "aset-aset yang dinyatakan seperti berikut," thereby explicitly classifying it as part of the matrimonial assets. This unambiguous enumeration serves a dual purpose: first, it eliminates any potential ambiguity regarding the nature of the EPF, D and second, it confirms the court's intent to treat it as a distributable asset in the division.

[29] Thus, the first respondent's EPF, by virtue of its express designation in para. (a), was incontrovertibly deemed part of the divisible assets. Any E contention to the contrary would be untenable, as it disregards both the explicit language of the court order and the settled canons of interpretive certainty in legal instruments.

[30] Given the clarity of the law and the consistent judicial approach toward EPF, there was no reasonable justification for the first respondent to F exclude them from disclosure.

[31] This was further underscored by the fact that the first respondent was represented by a firm of highly experienced and reputable family practitioners in Malaysia, who would have been well aware of the legal obligation to disclose all assets, including the first respondent's EPF.

G **[32]** Another instance of non-compliance by the first respondent was his failure to provide a full and accurate disclosure of his assets. While he disclosed his shareholding and property holdings from the date of marriage up until the filing of the judicial separation in April 2022, he failed to account for his assets as they stood at the time of filing his affidavit of means or at H the date of the court order. This omission was significant, as the relevant period for financial disclosure should have reflected his financial position at the time the court required it, ensuring transparency and fairness in the proceedings.

I **[33]** The first respondent countered by asserting that the court order contained material ambiguity concerning the operative date for asset disclosure. Specifically, he argued that the order failed to provide explicit

direction as to whether the disclosure should have reflected his financial position as of the filing of the judicial separation in April 2022, or whether the date should have been the filing his affidavit of means, as ordered by the court.

[34] The first respondent maintained that his interpretation – while potentially differing from the petitioner's position – was both objectively reasonable and made in good faith compliance with his disclosure obligations. He further emphasised that absent clear judicial direction on this critical temporal aspect, he should not be subject to penalties for adopting a plausible construction of the order's requirements.

[35] I found this contention untenable, as it was my view that if the first respondent had been genuinely uncertain about the required period for asset disclosure, the logical and appropriate course of action would have been to seek clarification from the court. Notably, this was not an unreasonable expectation, as his counsel had previously sought clarification from the court in April 2024 regarding the interpretation of several other terms in the court order – one of which pertained to the effective date for freezing 50% of the funds in his account as ordered by para. (a) of the court order.

[36] In *Tan Bee Geok v. Thai Kim Sim & Anor; Lin Woon Fui (Party Cited)* [2024] CLJU 2333; [2024] 1 LNS 2333; [2024] 8 AMR 854, which clarified the same court order, the effective date of the terms in the court order was explained in the following passage:

> [23] In my view, *when an effective date is not expressly stated in a court order, the default position is that the effective date is the date the court order was granted.* Therefore, in this instance, the effective date would be 10 January 2024, the date when the decision was given on encl 68.
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> [24] *A court order is generally intended to take effect immediately upon issuance, unless the order explicitly provides for a different timeline. The petitioner's reliance on alternative dates, such as the date of service on the bank or the date of filing of encl 68, seemed misplaced and without legal basis.* While these other dates may pertain to procedural actions taken following the issuance of the court order, they did not influence or modify the effective date of the court order itself unless it was specifically stated. The court order's effective date was central to its enforcement, and without any express provision to the contrary, it was presumed to take effect immediately. Thus, the petitioner's reliance on these alternative dates appeared to misconstrue the proper operation of the court's directive.
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> (emphasis added)

[37] The court order unequivocally took effect on the date it was granted, namely, 10 January 2024. Since this effective date applied to all other terms of the order, there was no logical basis for excluding para. (b). This inconsistency raised a fundamental question: if the first respondent accepted that the order's date governed the other terms, why should para. (b) be interpreted differently?

[38] Notably, when seeking clarification in April 2024, the first respondent contended that the petitioner's reliance on alternative date, such as the date of service on the bank or the date of filing of encl. 68, was misplaced and lacked a valid legal foundation. After careful consideration, I had found the first respondent's argument during the hearing of the application for clarification to be well-founded and acceptable.

[39] The principle of fairness necessitates consistency in the application of the court order across all its provisions. Since the first respondent had insisted on a strict interpretation regarding the petitioner's reliance on dates, then by the same standard, the first respondent must also adhere to a uniform application of the court order's effective date. After all, what is sauce for the goose is sauce for the gander – fairness dictates that same rules must apply equally to both parties.

Whether There Was Wilful Refusal To Comply With Paragraph (b) Of The Court Order

[40] It was undeniable that the first respondent had breached para. (b) of the court order as he had not denied it, but merely attempted to justify it by stating said that the term of the court order was vague and ambiguous.

[41] This court was mindful that contempt of court must be based on wilful refusal to comply with an order of the court. This is based particularly on the words of Lee Hun Hoe CJ (Borneo), where in citing the case of *Fairclough & Sons v. Manchester Ship Cane Co. (No 2*) [1897] WN 7 in *TO Thomas v. Asia Fishing Industry Pte Ltd* [1977] CLJU 126; [1977] 1 LNS 126; [1977] 1 MLJ 151 ('*TO Thomas*'), His Lordship had stated that 'an order of court must have been contumaciously disregarded. It is no good if it is casual, accidental and unintentional.'

[42] Lee Hun Hoe CJ (Borneo) referred to "intention" in *TO Thomas* in the context of ensuring clarity and unambiguity in a court order. In the present case, para. (b) of the court order was unequivocal, and the first respondent was fully aware of its meaning.

[43] In *TO Thomas*, it was further stated by Lee Hun Hoe CJ (Borneo), in the following passage:

> *Intention is of no consequence in the matter of contempt by disobedience to a court order: A-G v. Walthamstow Urban District Council* [1895] 11 TLR 533. *Stancomb v. Trowbridge Urban District Council* [1910] 2 Ch. 190. In particular, Donovan LJ expressed his view clearly in *Re A-G's Application, A-G v. Butterworth* [1963] 1 QB 696 in these words:
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> > I conceive the position, however, to be this. *Regina v. Odham's Press Ltd* [1957] 1 QB 73 *ex parte A-G* [1956] 3 All ER 494 makes it clear that an *intention to interfere with the proper administration of justice is not an essential ingredient of the offence of contempt of court. It is enough if the action complained of is inherently likely so to interfere.*
> >
> > (emphasis added)

[44] My attention was also brought to the case of *Jasa Keramat Sdn Bhd v. Monatech (M) Sdn Bhd* [2001] 4 CLJ 549; [2001] 4 MLJ 577 where it was held that '*mens rea* is not an ingredient to be proved in contempt proceedings' and that 'the corollary of there being no necessity to prove *mens rea* is that lack of intention does not prevent an alleged contemnor from being found guilty of contempt'. Thus, the first respondent's intention or lack of it as he claimed, would not negate his conduct which amounted to contempt of court.

[45] The contention that the first respondent's conduct was a deliberate attempt at concealment was supported by his silence and inaction when confronted about his undisclosed accounts. Rather than addressing the concerns raised about his non-compliance with para. (b) of the court order, the first respondent remained passive, offering no reasonable explanation for his failure to disclose these financial assets. In a matter as crucial as court-mandated financial disclosure, such an absence of response pointed not to an inadvertent omission, but to an intentional and deliberate act of withholding vital information.

[46] Instead of rectifying his non-compliance, the first respondent took a defensive stance, filing the application to set aside in June 2024. Rather than demonstrating an intention to cooperate, he attempted to challenge the legitimacy of the committal proceedings against him.

[47] After reviewing the application to set aside, in September 2024, the court dismissed it outright, deeming it frivolous and devoid of merit. This dismissal reinforced the view that the application to set aside lacked a substantive legal basis and served no legitimate purpose other than to obstruct the committal proceedings.

[48] Accordingly, I found myself in agreement with the petitioner's contention that the first respondent's move was a calculated delaying tactic designed to waste judicial time and evade accountability. By filing the application to set aside, which was baseless and unsubstantiated, the first respondent had deliberately prolonged the committal proceedings, creating unnecessary hurdles instead of addressing the core issue, which was his failure to comply with the para. (b) of the court order.

[49] Moreover, even after being fully appraised of his breaches, the first respondent took no steps to correct his non-compliance. Despite ample opportunity to provide full and accurate financial disclosure, he refused to take remedial action, demonstrating a blatant disregard for the court's authority.

[50] To make matters worse, the first respondent failed to issue even an apology for his failure to comply. Acknowledging wrongdoing – if not through substantive action, then at least through an expression of regret – could have signalled some willingness to rectify his conduct. Yet, his continued silence only reinforced his lack of accountability.

[51] This persistent defiance ultimately substantiated the petitioner's argument that the first respondent had wilfully refused to comply with the court order.

[52] At this juncture, it was crucial to remember that the rule pertaining to committal should be applied in all its strictness. Any disregard of a court order is a grave matter.

[53] 'It is the plain and unqualified obligation of every person against, or in respect of whom, an order is made by a court of competent jurisdiction, to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by a court order believes it to be irregular or even void' – per Romer LJ in *Hadkinson v. Hadkinson* [1952] 2 All ER 567.

[54] It was undeniable that contempt of court is not about punishing someone for failing to comply with an order that benefits or harms the other party. Rather, it concerns actions that disrupt or undermine the integrity and authority of the judicial system itself. The principles of contempt apply equally to all, regardless of one's identity or position.

[55] I found instructive the explanation by Arifin Zakaria CJ in the Federal Court in *Tan Sri Dato' (Dr) Rozali Ismail v. Lim Pang Cheong & Ors* [2012] 2 CLJ 849; [2012] 3 MLJ 1 in adopting the definition of contempt as stated in *Oswald's Contempt of Court*:

> [20] In dealing with the applications to set aside the leave for committal proceedings, it is necessary for us to consider the law of contempt. A good starting point would be the definition of contempt of court itself. *Oswald's Contempt of Court* (3rd Ed), at p 6 gives a general definition of contempt of court as follows:
>
> > To speak generally, contempt of court may be said to be constituted by any conduct that tends to bring the authority and administration of the law into disrespect or disregard, or to interfere with or prejudice parties, litigants, or their witnesses during the litigation.
>
> [21] The jurisprudence for arming the court with the power to punish a contempt is best expounded by Brown J in *Re HE Kingdon v. SC Goho* [1948] MLJ 17 as follows:
>
> > But the root principle on which this inherent power to punish for contempt is founded, and *the purpose for which it must be exercised, is not to vindicate the dignity of the individual judge or other judicial officer of a court or even of the court itself, but to prevent an undue interference with the administration of justice in the public interest.*
>
> [22] Hence, the power to punish a contempt is not derived merely from statute nor truly from common law but instead flows from the very concept of a court of law (see *Borrie & Lowe's The Law of Contempt* (3rd Ed), at p 465; and Master Jacob (1970) 23 Current Legal Problems 23).
>
> (emphasis added)

[56] Following from the paragraphs above in *Tan Sri Dato' (Dr) Rozali Ismail v. Lim Pang Cheong*, it was, therefore, essential to underscore to all parties that the first respondent's failure to comply with para. (b) of the court order was not a matter of preserving the dignity of this court; rather, it is directly linked to the court's authority to guarantee that the administration of justice is neither obstructed nor thwarted.

[57] Reference was made also to the case of *Lee Chang Yong v. Teng Wai Yee* [2017] CLJU 1818; [2017] 1 LNS 1818; [2017] MLJU 1841, where the rationale of the law of contempt was highlighted in the following passage:

> The object of the law of contempt is not to protect Judges and their dignity **but to protect the rights of the public by ensuring that the administration of justice is not obstructed or prevented.** To constitute contempt of court, there must be some "act done, or writing published calculated to bring a Court or Judge of the Court into contempt or to lower his authority" or "calculated to obstruct or interfere with the due course of justice or the lawful process of the Courts. (emphasis added)

[58] I also drew guidance from the case of *Chandra Sri Ram v. Murray Hiebert* [1997] 3 CLJ Supp 518, where it was stated that the 'courts must fulfil their responsibilities by passing an appropriate sentence to reflect the extreme seriousness of the instant case, in particular, the respondent's unrelenting interference with due administration of justice and the unmitigated culpability of the respondent as demonstrated in his article. Our courts would not be doing their duties and indeed would be acting against public interest, especially having regard to the facts and circumstances of the instant case, by imposing a mere fine' – per Low Hop Bing J (as he then was).

[59] Contempt of court is, therefore, less about an individual's personal failure to follow orders and more about the broader principle that the judicial system must be respected and able to operate without interference. No one, should be allowed to thumb their nose at any court order, regardless of their position.

[60] In the final analysis I found the first respondent's conduct to be deliberate, intentional and a wilful refusal to comply with the term of the court order. It was also indicative of his impertinence and total disrespect to the administration of justice, which this court took an extremely dim view of.

Sentencing

[61] The power of this court to punish the first respondent for contempt of court is found in art. 126 of the Federal Constitution, and s. 13 of the Courts of Judicature Act 1964, both of which read:

A Federal Constitution

Article 126 – Power to punish for contempt

The Federal Court, the Court of Appeal or a High Court shall have power to punish any contempt of itself.

B ***

Courts of Judicature Act 1964

Section 13 - Contempt

The Federal Court, the Court of Appeal and the High Court shall have power to punish any contempt of itself.

C

[62] The petitioner argued that the circumstances of the case justified the imposition of a custodial sentence for the first respondent due to his deliberate, intentional, and wilful refusal to comply with para. (b) of the court order. While it was undeniable that the first respondent had indeed D disobeyed the court order, it was emphasised that these proceedings should not be used as a platform for parties to engage in personal vendettas.

[63] The primary function of the court is to administer justice impartially, not to be used as a vehicle for one party to exact revenge against the other. Consequently, any punishment imposed must serve the interests of justice E rather than act as retribution for the petitioner. The purpose of the contempt proceedings was not to vindicate the petitioner but to uphold the court's authority and ensure compliance with its orders.

[64] The petitioner further argued that imposing a fine might prove ineffective as a form of punishment, given that the first respondent's financial F standing would allow him to pay the amount without significant impact, effectively treating it as mere "loose change."

[65] Although I acknowledged the petitioner's contention, it was my view that the focus of this application should not be on the first respondent's financial capacity but rather on the seriousness of his non-compliance with G the term of the court order. The punishment should reflect the gravity of the breach of the court order, rather than being determined by the first respondent's ability to pay.

Conclusion

H **[66]** Accordingly, the court imposed a fine of RM20,000 for each of the three categories of non-compliance, amounting to a total fine of RM60,000. The categories were as follows: (i) the first respondent's failure to fully disclose details of his bank accounts; (ii) the failure to disclose all of his bank accounts, including his EPF; and (iii) the limited disclosure of shareholding I and properties as of the date of the judicial separation in April 2022.

[67] In addition, the court ordered the first respondent to pay costs of RM30,000, subject to allocatur. Both the fine (RM60,000) and costs (RM30,000) were to be paid within 14 days from 7 February 2025, the date on which the decision was delivered. Failure to do so would result in imprisonment until the contempt was purged.

[68] The court granted the first respondent an extension until 31 March 2025 to comply with para. (b) of the court order. Failure to meet this deadline would result in imprisonment until the contempt was purged. This demonstrated that the court afforded the first respondent an opportunity to comply while also establishing a strict consequence for continued non-compliance.